

Ronald R. Sticka, OSB #72253
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Trustee

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF OREGON

In re

David Earl Ledford
Terry Suzette Bailey-Ledford,

Debtors.

Ronald R. Sticka, Trustee, Estate of David
Earl Ledford and Terry Suzette Bailey-
Ledford,

Plaintiff,

vs.

David Earl Ledford
Terry Suzette Bailey-Ledford,

Defendants.

Case No. 05-72824-fra7

Adv. Proc. No. 08-06075-fra

COMPLAINT FOR REVOCATION
OF DISCHARGE AND FOR
MONEY DUE
(11 U.S.C. § 727)

Plaintiff, Ronald R. Sticka, Trustee of the above entitled estate, alleges as follows:

I. JURISDICTION AND PARTIES

1.

That on October 14, 2005, David Earl Ledford and Terry Suzette Bailey-Ledford, Defendants, filed a voluntary petition in bankruptcy under 11 U.S.C. Chapter 7 in the Bankruptcy Court for the District of Oregon, whereupon an Order for Relief was entered. Thereafter, Ronald R. Sticka has served as trustee in which capacity this action is brought.

1 2.

2 Defendants are the debtors in this case.

3 3.

4 This action is brought under the provisions of 11 U.S.C. § 727 (d)(2) and (3) for
5 revocation of discharge; and to grant judgment for money due the estate. This is a core
6 proceeding under 28 U.S.C. § 157(b)(2)(E) and (J). The court has jurisdiction under 28 U.S.C. §
7 1334.

8 **II. CLAIM FOR RELIEF**
9 **Revocation of Discharge**
10 **Count 1**
11 **(11 U.S.C. § 727(d)(3))**

12 4.

13 On May 12, 2006, the Honorable Frank R. Alley ordered Defendants to turn over 2004
14 and 2005 state and federal tax returns due at the office of the trustee within 30 days and 2005
15 state and federal tax refunds immediately upon receipt . A copy of the court's Order is attached
16 as Exhibit "A".

17 5.

18 Defendants have failed to turn over the 2004 and 2005 state and federal tax returns and
19 refunds as specified in the court's order.

20 6.

21 An order of discharge was entered on February 17, 2006. The case is not closed.

22 7.

23 Discharge should be vacated for the reason that Defendants have failed to obey an Order
24 of the court, as alleged herein.

25 **Count 2**
26 **(11 U.S.C. § 727(d)(2))**

27 8.

Plaintiff re-alleges each and every fact and allegation contained in Paragraphs 4 through 7

1 herein and the whole thereof.

2 9.

3 The 2004 and 2005 state and federal tax returns and refunds have at all material times
4 constituted property of the bankruptcy estate.

5 10.

6 Defendants have not turned over the 2004 and 2005 state and federal tax returns and
7 refunds to Plaintiff, and have misappropriated them for their own use and benefit. Plaintiff
8 received notice from the Internal Revenue Service that Defendants received the 2004 federal tax
9 refund on or after May 28, 2007 in the amount of \$2,327.00, and the 2005 federal tax refund on
10 or after June 4, 2007 in the amount of \$4,587.00, a copy of the notice is attached as Exhibit "B".
11 The net non-exempt refunds due the estate are \$5,138.76.

12 11.

13 Under the circumstances, Defendants have knowingly and fraudulently failed to deliver or
14 surrender such property to the Trustee as directed, for which discharge should be revoked and
15 judgment given in the amount of \$5,138.76 for the non-exempt tax refunds.

16 WHEREFORE, Plaintiff prays for a judgment as follows:

17 1. Revoking the discharge of Defendants under 11 U.S.C. § 727(d)(2) and (3), according
18 to the evidence.

19 2. Giving judgment in favor of Plaintiff in the amount of \$5,138.76.

20 3. Giving judgment in favor of Plaintiff for Plaintiff's costs incurred herein.

21 4. Granting Plaintiff such other and further relief as the court deems just and proper.

22 DATED this 7th day of May, 2008.

23
24
25 By: /s/ Ronald R. Sticka
26 Ronald R. Sticka, OSB #72253
27 Trustee

U.S. BANKRUPTCY COURT
DISTRICT OF OREGON

FILED

May 12, 2006

Clerk, U.S. Bankruptcy Court

Below is an Order of the Court.


FRANK R. ALVEY
U.S. Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
DISTRICT OF OREGON

In re)
) Case No. 05-72824-fra7
Ledford, David Earl)
Bailey-Ledford, Terry Suzette)
Debtor(s)) MOTION FOR ORDER REQUIRING DEBTOR(S) TO TURN
) OVER PROPERTY, AND ORDER THEREON

It appearing that the debtor(s) are accountable to the trustee, **Ronald R. Sticka**, for the following monies or property:

2004 and 2005 state and federal tax returns and refunds.

The trustee moves the court for an order requiring the debtor(s) to turn over said property as follows: **2004 and 2005 state and federal tax returns due at the office of the trustee within 30 days from the date shown by the "Clerk" stamp above, and 2005 state and federal tax returns immediately upon receipt.**

DATE: May 11, 2006

/s/ Ronald R. Sticka

Trustee

IT IS ORDERED AND NOTICE IS GIVEN that the debtor(s) are required to turn over to the trustee the property stated above in the manner stated above, without further order of the Court, unless within 22 days of the date in the "FILED" stamp above the debtor(s) BOTH: (1) files written objections thereto, setting forth the specific grounds for such objection, with the Clerk of Court (i.e., if the 5-digit portion of the Case No. begins with "3" or "4", mail to 1001 SW 5th Ave. #700, Portland OR 97204; OR, if it begins with "6" or "7", mail to PO Box 1335, Eugene OR 97440), AND (2) serves a copy thereof on the trustee at **P.O. Box 10990, Eugene, OR 97440.**

NOTE: Failure to comply with the foregoing order is a ground for the denial of the discharge of the debtor(s) or the revocation of such discharge. 11 U.S.C. §727.

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755 (6/15/05)

EXHIBIT "A"
PAGE 1 OF 1

RONALD R. STICKA
BANKRUPTCY TRUSTEEP.O. BOX 10990
EUGENE, OREGON 97440-2990
(541) 344-0695
Telefax 541-344-4811

May 3, 2007

*Via Telefax: 503-326-5455*Internal Revenue Service
Teresa Dominguez**RE: In re David Earl Ledford & Terry Suzette Bailey-Ledford**
Bankruptcy Case No. 05-72824-fra7
SSN: 543-82-3565; 540-92-8933

Dear Ms. Dominguez:

I would appreciate your assistance in the above case. I am updating my request to see if debtors have now filed tax returns for 2004 and 2005. Please see your prior response received June 2006, which is faxed herewith. The bankruptcy filing date is October 14, 2005..

Thank you for your prompt attention to this matter.

Very truly yours,

Ronald R. Sticka
Bankruptcy Trustee

AKL:akl

| | Date Return Filed | Date Refund Issued | Amount of Refund |
|------|-------------------|--------------------|------------------------|
| 2004 | 04/23/07 | 5/28/07 | \$2,327. ⁰⁰ |
| 2005 | 04/13/07 | 6/4/07 | \$4,587. ⁰⁰ |